

■ *Michigan had the highest collection per full-time equivalent employee, for states (California, New York, Ohio, Pennsylvania, and Texas) that collected more than 1 billion in 2002.*

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Developing Supervised Parenting Time Services

by Mary Lovik, J.D., Michigan Domestic Violence Prevention & Treatment Board, FIA

The State of Michigan is one of four national demonstration sites working to develop safe parenting time options for domestic relations cases that involve domestic violence, sexual assault, or stalking. The Michigan Domestic Violence Prevention and Treatment Board (MDVPTB), is administratively placed within the Family Independence Agency received a \$1.1 million grant for this purpose under the federal *Safe Havens: Supervised Visitation and Safe Exchange Grant Program* administered by the U.S. Department of Justice, Office on Violence Against Women.

That funding supports services at four Michigan supervised parenting time centers serving six counties: *Child and Parent Center* (Jackson), *Every Woman's Place* (Muskegon), *HAVEN, Inc.* (Oakland), and *Child and Family Services of Northwestern Michigan* (Antrim, Grand Traverse, and Leelanau). In addition to providing services, the centers also collaborate with the MDVPTB to develop practices that promote safety. They receive technical assistance in these efforts from the National Council of Juvenile and Family Court Judges in Reno, Nevada and from, Praxis International in Duluth, Minnesota.

Each of Michigan's four centers has a local Advisory Group that helps coordinate that center's community services. The MDVPTB will likewise convene a State Advisory Group to develop model policies. Participants in these Advisory Groups include court professionals, batterer intervention service providers, child welfare experts, and other professionals serving victims of domestic violence, sexual assault, and child abuse.

The *Safe Havens* program recognizes that domestic abuse may intensify following separation or divorce because abusers often use violence to regain control over their partners. Abusers may use parenting time as an opportunity to threaten or assault a former partner; they may even threaten or assault their own children as a means of asserting control over their former partners. In cases where the risks from such behavior are not as high as to preclude parenting time, services funded by the *Safe Havens* program can help by seeking to:

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Changes to MiCSES

by State Court Administrative Office, Friend of the Court Bureau Staff and Office of Child Support Staff

The MiCSES system achieved federal certification last Fall. Federal certification was a significant achievement for the State of Michigan to avoid \$147.5 million in federal penalties.

The Michigan Child Support Program Policy Leadership Group will continue to schedule system releases as has been done throughout the certification process. Currently there are releases scheduled for June, July, September, and October of 2004, and February 2005. These releases are intended to implement fixes and improve the system; some are also necessary because of changes in legislation and other mandates. The following is a description of the items included in the June 2004 release.

Surcharge: As a result of Public Act 276 (effective July 1, 2004) which amended the Support and Parenting Time Enforcement Act [MCL 552.601 to 552.650], the release will allow the modifying the surcharge rate, eliminate the compounding of surcharges, allow adjustment of surcharges, and allow ongoing user updates.

Escheatment: The modification enables applicable MiCSES receipts to be escheated in a centralized and automated manner, in two phases: 1) escheatment selection and due diligence notice generation in mid-July; and 2) final escheatment of receipts to the Treasury Department by November 1. The MiSDU will handle all responses to the due diligence notices.

Facilitate Processing of Receipts Held In Suspense: Four suspense reports will be significantly enhanced to provide Friends of the Court a better opportunity to process money held in suspense.

Case Closure: The modification will ensure Michigan meets both Federal and State requirements for closing cases.

Reference Table Updates: The modification will create and correct MiCSES screens to allow user input and modification of reference tables. Due to resource constraints, this release will only address screen access for “high priority” tables. These high priority tables are the ones most often changed and the creation of screens reduces the amount of time and resources needed to update the system.

Ad Hoc Reporting: As a result of the modification, MiCSES will provide query reports that were considered too complex for the Fast Track Query Team. The modification will also post query reports that have been frequently requested in the past. The release will allow those who use the system to retrieve much needed information from MiCSES.

NOTE: The plan for releases also includes 500 programming hours set aside to review selected remedy tickets. Remedy tickets will be selected by the release planning group based on priority and resources available.

The Michigan Child Support Program will continue to strive to be the national leader in the promotion of healthy parent-child relationships through comprehensive child support services

For more information about the MiCSES please go to: <http://mi-support.cses.state.mi.us/>.

Status of Work Improvement Teams

by State Court Administrative Office, Friend of the Court Bureau Staff

The July 2003 Pundit included an article on the newly developed and recently implemented decision-making process within the Michigan Child Support Program known as “Work Improvement Teams” or WITs. The teams are under the direction of the IV–D Program Leadership Group (PLG). The PLG is responsible for assigning tasks to the teams, resolving issues facing the teams, and general administration of the team. Representatives of the Office of Child Support, MiCSES Project, State Court Administrative Office, Friends of the Court, and Prosecuting Attorneys serve on the WITs. Currently there are four teams (Enforcement, Establishment, Case Management, and Financials). Each team performs the following tasks:

- Gathers perspectives from all areas of the child support program.
- Identifies issues facing the Michigan Child Support Program and makes recommendations to the PLG to resolve those issues.
- Develops and drafts policy and procedures for the Michigan Child Support Program.

The following is a brief description of current activities of each team.

Child Support Enforcement Work Improvement Team

The Child Support Enforcement WIT has spent much of its time reviewing MiCSES enforcement remedy calls. In addition to reviewing remedy calls, the team has looked at issues regarding:

- The publication of the names of delinquent child support payers.
- Procedures involving Friends of the Court pre-show cause hearing conferences.
- Issuing bench warrants.
- Printing of income withholding notices for cases involving domestic violence.
- The administrative adjustment of income withholding notices.

This team will be making recommendations to the PLG regarding tax offsets, financial institution data match, passport denial, and credit bureau reporting as well as other improvements to child support enforcement procedures.

Case Management Work Improvement Team

The Case Management WIT, has also spent a lot of time reviewing remedy tickets; however, the team has also addressed:

- Case assignment.
- Case closure procedures.
- Policy and procedures involving the Family Violence Indicator.
- Case balancing: work assigned to child support specialists.
- Interstate child support procedures.
- Address changes on the MICSES.

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Status of Work Improvement Teams, continued from page 3

The Case Management team will continue to meet and provide the PLG with recommendations to improve case management.

Case Establishment Work Improvement Team

The Case Establishment WIT has been focusing on issues facing the Michigan Child Support Program regarding paternity and child support establishment, specifically:

- Increasing paternity establishment percentages statewide.
- Increasing cases with court orders.
- Reviewing best practices for paternity and support establishment from other states.
- Improving the case referral process for child support cases.
- Reducing the number of default court orders (orders entered by the court when the defendant fails to appear).
- Using the Michigan Child Support Formula Manual.

This team will continue to make recommendations to the PLG to increase the establishment percentage for paternity and support cases in Michigan. The team will also review other establishment issues as they arise.

Financial Management Work Improvement Team

The Financial Management WIT was charged with addressing issues involving the processing of child support payments. The major issues the team has addressed since July of 2003, have been:

- Allocation and distribution of child support.
- Parenting-time abatements.
- Fixed and non-fixed obligations.
- Money held in suspense accounts.
- Mid-month certifications.

This team will continue to meet to discuss child support processing issues and make recommendations to the PLG on resolving those issues.

If you are employed by a friend of the court, a prosecutor's office or the Office of Child Support and want to serve on a WIT, please check with your employer for approval. If you receive approval and want to become a member of a WIT, then please contact Monkeida Relerford (517) 241-5082 or relerfordM@michigan.gov.

For more information about WITs please go to: http://mi-support.mfia.state.mi.us/programs/Work_Improvement/default.asp.

Michigan A Leader In Child Support Collections

by State Court Administrative Office, Friend of the Court Bureau Staff

Often you hear how much child support states collect. Where does Michigan rank in comparison to other states? **NEAR THE TOP--THE VERY TOP!** Here are data from the most recent annual reports published by the federal Office of Child Support Enforcement.

Michigan's Total Child Support Collections for the Last Six Fiscal Years

Year	Ranking	Total Collected	Percentage Change Per Year
1997	2nd	\$1,092,176,097	+15%
1998	2nd	\$1,151,824,001	+5%
1999	3rd	\$1,274,637,793	+11%
2000	3rd	\$1,347,410,776	+6%
2001	3rd	\$1,385,225,776	+3%
2002	3rd	\$1,443,730,382	+4%

How well does Michigan do in comparison to other states on other indicators of child support collections? Once again we do very, very well!

Payments to Families: Michigan was **second** in the nation in 2002 in payments sent to families or to foster care agencies to be used on the child's behalf. Only Ohio did better.

Medical Support Payments: Michigan was **second** only to the Wisconsin for 2002. This category included all collections that corresponded to amounts specifically designated in support orders for medical support.

Collections Per Full-Time Equivalent: Michigan's collections per full-time equivalent staff (FTE) in 2002 were \$ 551,042 per FTE. That was \$225,187 above the 2002 national average of \$325,855. Michigan had the highest collection per FTE, for states (California, New York, Ohio, Pennsylvania, and Texas) that collected more than 1 billion in 2002.

For more information child support collections by Michigan and other states, please go to the federal Office of Child Support's website at: <http://www.acf.dhhs.gov/programs/cse/>.

Michigan ranks 2nd in the nation in total child support collection, in payments sent to families and foster care agencies, and in medical support collection.

Cases in Brief

by State Court Administrative Office, Friend of the Court Bureau Staff

In the four recent decisions summarized below, the Court of Appeals had to decide how an earlier custody order in the same case should affect a trial court's consideration of a motion to change custody. See MCL 722.27(1)(c), which states:

[The court may] [m]odify or amend its previous judgments or orders for proper cause shown or because of change of circumstances... The court shall not modify or amend its previous orders or judgments or issue a new order so as to change the established custodial environment of a child unless there is presented clear and convincing evidence that it is in the best interest of the child..."

Taylor v Cough, unpublished per curiam opinion of the Court of Appeals, issued January 8, 2004. The plaintiff sued her child's father for child support and to determine custody and parenting time. The defendant's responsive pleadings included a motion to change custody. The parties ultimately stipulated to an order that awarded custody to the plaintiff. The trial court then denied the defendant's still-pending motion to change custody. The Court of Appeals affirmed, citing *Rossow v Aranda*, 206 Mich App 456 (1994).

CASE HOLDING: Once the stipulated order entered, the judge was not required to weigh the "best interests" criteria because the defendant had made no allegations of "proper cause" or "change of circumstances" *subsequent* to the consent order.

Cook v Cook, unpublished per curiam opinion of the Court of Appeals, issued March 16, 2004. In this divorce case, the judge had entered a temporary order that specified *joint* physical and legal custody of the parties' children. In fact, however, the children "looked to plaintiff [mother] for most of the things for which children depend upon parents." COA Opinion, p2. At trial, the defendant father argued that the existing order for joint custody meant that there was *no* established custodial environment with *either* parent. The trial judge disagreed, relying on the testimony about the children's strong ties to their mother. The Court of Appeals affirmed on this issue, ruling that the temporary order in no way restricted the judge on the "established custodial environment" issue.

CASE HOLDING: The *Cook* panel quoted the following from *Hayes v Hayes*, 209 Mich App 385, 388 (1999): "In determining whether an established custodial environment exists, it makes no difference whether that environment was created by a court order, without a court order, in violation of a court order, or by a court order that was subsequently reversed."

Van Arsdol v Van Arsdol, unpublished per curiam opinion of the Court of Appeals, issued March 23, 2004. The parties had stipulated to a consent divorce judgment that awarded physical custody of their children to the plaintiff mother. Two years later, the defendant moved for a change of custody and offered two arguments in support of his assertion that the judgment had not created an "established custodial environment" with the plaintiff. He first argued that, before the consent judgment, the established custodial environment had been

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- Provide a safe, affordable, age appropriate and activity appropriate means of visitation and exchange.
- Reduce trauma and anxiety to batterers' children, who are afraid that they or the non-abusive parent will be hurt or threatened during any contact with the battering parent.
- Eliminate the risk that children will be physically abused or abducted, and substantially reduce the risk of emotional abuse during supervised parenting time with a battering parent.
- Increase visitation center's capabilities to provide safe and appropriate supervised parenting time by developing policies, protocols, and training opportunities.
- Increase Michigan's capacity to monitor existing visitation centers and to assist in the start-up of new supervised parenting time centers.
- Increase the state-wide coordination of supervised parenting time centers.
- Increase the information and training available to local supervised parenting time center staff and affiliated court personnel.

Outside Michigan, *Safe Havens* demonstration projects are located in San Mateo County, California; Chicago, Illinois, and Kent, Washington. Additional information about the Michigan *Safe Havens* program can be obtained from Shelia Hankins, Project Director, at (517) 335-3985.

Capitol Corner

by State Court Administrative Office, Friend of the Court Bureau Staff

Since the January 2004 Pundit legislators have introduced seven House and Senate bills that could impact Friends of the Court. These bills, all other pending bills, and public acts may be viewed at: <http://www.michiganlegislature.org/>.

House Bill 5470 and Senate Bill 960 would amend Michigan Divorce Law [MCL 552.1 to 552.46] by requiring that most divorcing parents or custodians of minor children complete a “divorce effects program” in order to obtain a judgment of divorce. The program would instruct parents and custodians on many subjects, including conflict-resolution skills, how divorce can effect children, and basic court procedures. Only qualified professionals (including court or friend of the court personnel) could provide the instruction and certify that a party has completed the program. The bills include exemptions and other special provisions dealing with (1) a party who is a victim of domestic abuse by the other party or (2) conflicts with the required instructions as it pertains to a provider’s religious beliefs. Providers could charge parties for the instruction; they could choose not to charge indigent parties. These bills were introduced on February 5, 2004, and have been referred to Judiciary Committees in the House and Senate.

House Bill 5471 and Senate Bill 966 would amend the Child Custody Act [MCL 722.21 to 722.31] by renaming it the Child Parenting Plan or Custody Dispute Act and requiring that before a judgment of divorce, separate maintenance, or annulment may be entered by the court, the court must approve a parenting time plan that is in the child’s best interests and otherwise meet the requirements laid out in these bills. The State Court Administrative Office (SCAO) would be required to develop and make available a parenting time form. The parents would have to submit to the court an agreed-upon parenting time plan. If they cannot agree, the parents must then use an alternative dispute resolution process provided by friend of the court (FOC) mediation services or another agency or individual selected by the parties. If that does not produce an agreement, the next step would be a mandatory settlement conference, at which a judge or a domestic relations referee will preside. A court could not issue an order implementing a disputed plan until a hearing is held. Domestic relations cases involving child abuse or domestic violence would be exempt from these requirements. The bills were introduced on February 5, 2004, and have been referred to Judiciary Committees in the House and Senate.

House Bill 5472 and Senate Bill 965 would amend Michigan Divorce Law [MCL 552.1 to 552.46]. If, in the FOC’s judgment, the interest of the children or the public good so requires, the FOC shall introduce evidence and appear at the hearing and oppose the granting of a judgment of divorce. The FOC would file with the court a determination of the interests of the child and the public good. The FOC would receive the sum of \$5 for investigating the issues and appearing at a hearing to contest a judgment of divorce. The bill sets forth the factors that must be considered when addressing the “interests of the child.” The FOC would be required to submit an annual report to SCAO regarding its involvement in divorce proceedings. The bills have been referred to Judiciary Committees in the House and Senate.

Senate Bill 932 would amend the Child Custody Act [MCL 722.21 to 722.31] by allowing a domestic relations case to be transferred to a contiguous county if the parent who has custody of the child moves to that county and both parents and the court agree to transfer the case. The bill was introduced on January 28, 2004, and has been referred to Senate Judiciary Committee.

Cases in Brief, continued from page 6

with him. Second, he argued that although the children resided with their mother post-judgment, they regularly confided in him and sought his guidance regarding events that occurred while they were with their mother that made them uncomfortable. The trial judge focused only on events occurring *after* the consent judgment. Relying to some extent on credibility determinations, the judge found that, consistent with the judgment, the established custodial environment was with the mother. The Court of Appeals affirmed.

CASE HOLDING: A motion for change of custody must be decided based on events occurring *after* the last preceding custody order, here the consent judgment.

Thompson v Thompson, unpublished per curiam opinion of the Court of Appeals, issued March 23, 2004. This case offers an interesting contrast to the *Van Arsdol* decision summarized just above. Here, instead of a consent *judgment*, there was a stipulated *temporary order* that awarded custody to one parent. At trial, that parent sought to limit the custody testimony to events that occurred after that order was entered. The trial judge declined to so limit the testimony, stating, “This is a trial on the merits, [not] a post judgment type of matter. I think [defendant is] entitled to her day in court and I’ll allow her to present all of her testimony.” COA Opinion, p2. The Court of Appeals affirmed.

CASE HOLDING: A stipulated *temporary* custody order does not bar the later presentation (at trial) of testimony about events that occurred before the temporary order was entered.

PUNDIT COMMENTS: The Court of Appeals has not published any of the four decisions summarized above. That means that they are not a precedent binding on lower courts. MCR 7.215(C)(1). However, each of the decisions cites earlier published cases that, depending on the facts of a new case, might be a precedent binding. Further, a litigant may urge a court to follow the reasoning in an unpublished appellate decision if the litigant provides copies of the unpublished decision to the court and the opposing party.

Van Arsdol and *Thompson*, reached superficially opposite conclusions about whether the trial court could consider events that occurred before the case’s previous custody order was entered. One possible distinction is that *Van Arsdol* involved a *judgment* awarding custody, whereas *Thompson* involved only a *temporary order*.

Finally, in all four of these cases, the Court of Appeals affirmed the courts below.

SCAO extends to April 30, 2004, the deadline for submitting the Friend of the Court Statistical Report.

FYI

by State Court Administrative Office, Friend of the Court Bureau Staff

Friend of the Court Statistical Report –SCAO 41

The State Court Administrative Office has extended the deadline for submitting the Friend of the Court Statistical Report to April 30, 2004. As stated in the memo that was distributed to all Friends of the Court on April 9, 2004, the Friends of the Court should use only CSES information for the system related requests. Do not use the MiCSES information.

State Court Administrative Office Administrative Memoranda

Administrative Memorandum 2004-01 was distributed on March 12, 2004, and explains how circuit courts should implement MCR 3.221 (Hearings on Support and Parenting Time Enforcement Act Bench Warrants). Trial courts should adopt a local administrative order to implement this administrative memorandum within twenty-eight days. See the memorandum at: <http://www.courts.michigan.gov/scao/resources/other/scaoadm/2004/2004-01.pdf>.

Administrative Memorandum 2004-04 was distributed on April 12, 2004, and provides a model local administrative order as well as explains how a fixed obligation will be enforced under the Michigan Child Support Enforcement System. See the memorandum at: <http://www.courts.michigan.gov/scao/resources/other/scaoadm/2004/2004-04.pdf>.

State Court Administrative Office Parenting Time Website

The State Court Administrative Office recently produced a parenting time website. This website is designed to help individuals learn about parenting time and how to make the most of it. It is an interactive site that plays an audio/video clip from a parent, child, judge, lawyer, or friend of the court employee on a particular parenting time issue. The website can be found at: <http://www.courts.mi.gov/scao/services/focb/parentingtime/>.

Michigan Child Support Formula Manual

The Child Support Formula Manual will be distributed at the end of April 2004.

Michigan Family Support Regional Conferences

Michigan Family Support Southeast Spring Conference: May 7, 2004, Harrison Twp

Northern Michigan Family Support Council Spring Conference: May 12, 2004, Traverse City

Michigan Family Support Southwest Spring Conference: May 20, 2004, Battle Creek

Central Michigan Family Support Council Spring Conference: May 25, 2004, Williamston

To view the agendas and receive instructions on how to register for the conferences please go to: http://www.mi-support.mfia.state.mi.us/programs/program_calendar/default.asp.